

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TAVARIS L. MOSS,)
vs. Plaintiff,) NO. CIV-11-154-D
JOHN MIDDLETON, et al.,)
Defendants.)

O R D E R

Plaintiff, who appears *pro se*, brought this action pursuant to 42 U. S. C. § 1983, alleging violations of his constitutional rights by the defendants. Pursuant to 28 U.S.C. §636(b)(1)(B), the matter was referred to United States Magistrate Judge Robert E. Bacharach for initial proceedings.

On July 25, 2011, Plaintiff filed a motion for default judgment [Doc. No. 47], in which he stated the Court Clerk had entered a default against “the Defendant” on July 21, 2011. The Court file reflects that, on July 22, 2011, Plaintiff asked the Clerk to enter default against Defendant Justin Jones [Doc. No. 42]. However, the Clerk did not enter default against Defendant Justin Jones or any other defendant.

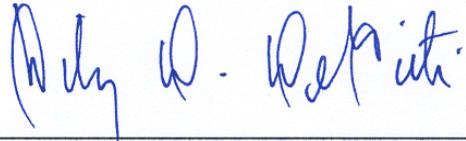
On July 27, 2011, the Magistrate Judge filed a Report and Recommendation [Doc. No. 51] in which he recommended the motion for default judgment be denied. He noted that, contrary to Plaintiff’s contention, the Court Clerk has not filed an entry of default against any defendant. With respect to Defendant Justin Jones, the deadline for his Answer or motion in response to the Complaint was July 25, 2011 and, on that date, Defendant Jones filed a motion to dismiss or, in the alternative, for summary judgment [Doc. No. 46]. Accordingly, the Magistrate Judge recommended the motion for default judgment be denied.

In the Report and Recommendation, the Magistrate Judge advised Plaintiff of his right to

object to the findings and conclusions set forth therein and scheduled an August 15, 2011 deadline for filing such objections. He also expressly cautioned Plaintiff that a failure to timely file objections would result in a waiver of the right to appellate review of the matters determined in the Report and Recommendation.

The deadline for filing objections has expired, and Plaintiff has not filed an objection to the Report and Recommendation or sought an extension of time in which to do so. Therefore, the Report and Recommendation [Doc. No.51]is adopted as though fully set forth herein. Plaintiff's default judgment motion [Doc. No. 47] is denied. As set forth in the Report and Recommendation, this action remains under referral to Magistrate Judge Robert E. Bacharach.

IT IS SO ORDERED this 30th day of August, 2011.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE